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LYNN FAZZ
CLERK OF SUPERIOR COURT
YUMA ARIZONA 85364

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YUMA

IN THE MATTER OF:)
RONALD A. RIENDEAU and)
H. LORRAINE RIENDEAU) Administrative Order
) No. 2013.05
)

The Honorable Maria Elena Cruz, a member of the Yuma County Superior Court Bench, has referred to this court S1400CV200600284 Riendeau v Wal-Mart and provided a copy of her order dated March 18, 2013. In that order Judge Cruz sets forth in detail the history of the above case and Riendaus continued efforts by motion, to vacate the court's order of August 10, 2008 wherein the court denied Plaintiff's Motion for Sanctions. The undersigned adopts by reference the Findings and Orders made by Judge Cruz including the specific findings that the Plaintiffs are vexatious litigants.

There is no need to repeat the history of this case, but suffice it to say, that following dismissal of their case with prejudice based on their failure to appear for the jury trial, Plaintiffs filed an appeal on the issue pertaining to the denial of sanctions only. Their appeal was denied by the Court of Appeals on September 9, 2010. The Mandate has issued and their case is over with. Additionally, there is a history documented by Judge Cruz of the Plaintiffs filing non meritorious pre trial motions plus this latest non meritorious Motion to Vacate Order filed long after the matter was resolved on appeal

1 The undersigned concurs that the Plaintiffs are vexatious litigants and that they are in fact
2 causing considerable expense to Defendant Wal-Mart, abusing the judicial process and access to
3 this court for which this court has the power to prevent or at least minimize.

4 All of the requirements to enter an order that the Plaintiffs are vexatious litigants and to
5 restrict future filings are documented in Judge Cruz's order and as required by *Madison v.*
6 *Groseth* 230 Ariz 8, 279, P3d 633 (App 1212) and *De Long v Hennessey* 912 F 2d 1144 (9th Cir
7 1990).

8 **IT IS ORDERED** effective immediately, that the Riendeaus, either individually or jointly
9 shall not file and the Clerk of this Court shall not accept any further pleadings or other filings
10 from the Riendeaus pertaining to *Reindeua v. Wal-Mart Stores, Inc.* case no.
11 S1400CV200600284 without leave of the presiding judge. Procedurally, the Clerk is directed to
12 refer any attempt to do by the Riendeaus, along with copies of the pleadings or document, to the
13 undersigned for review. Judge Cruz's order of March 18, 2013 shall be attached and
14 incorporated herein.

15 DATED: March 25, 2013.

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17 Honorable John N. Nelson
18 Presiding Judge
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COPIES TO:

Hon. Larry Kenworthy
Hon. John Paul Plante
Hon. Mark Wayne Reeves
Hon. Maria Elena Cruz
Hon. David M. Haws
Hon. Kathryn Stocking-Tate
Hon. James Clark
Hon. Lisa Bleich
Hon. Lynn Fazz, Clerk of Superior Court
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LYNN FAZZ
CLERK OF SUPERIOR COURT
YUMA ARIZONA 85364

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YUMA

LEONARD A. RIENDAU and
H. LORRAINE RIENDEAU,

Plaintiffs,

vs.

WAL-MART STORES, INC.,

Defendants.

Case No.: S1400CV200600284

ORDER

Hon. Maria Elena Cruz, Division Six

The Court is in receipt of Plaintiffs' "Motion to Vacate Void Order," filed on February 11, 2013. In said motion Plaintiffs seek this court vacate its order entered via signed minute entry filed on August 20, 2008. Defendant responds in opposition and moves this court declare Plaintiffs vexatious litigants, and restrict Plaintiffs' filing of derivative lawsuits and post-judgment motions. Concluding the matter has been fully litigated, ruled upon and properly appealed, Plaintiffs' motion is denied. For the reasons set forth below, the court finds Plaintiffs to be vexatious litigants and restricts further filings as indicated.

FACTS AND PROCEDURAL HISTORY

This case arises from a slip and fall which occurred at a Wal-mart store in Yuma, Arizona. Plaintiffs, proceeding in Pro Per, seeking monetary damages against Wal-mart. Through their Complaint and Answer respectively, Plaintiffs asserted this court had personal and subject matter jurisdiction over the matter and parties. Defendants admitted the same.

On April 7, 2008, Plaintiffs filed a "Motion for Sanctions for Failure to Timely Disclose Unfavorable Information" (hereinafter, "Motion for Sanctions"). The court held a hearing on this and other motions and denied the motion for sanctions following a hearing on August 5, 2013. A signed minute entry was filed on August 20, 2008. On August 18, 2008, Plaintiffs filed a "Statement in Reference to the August 5, 2008 Hearing," seeking reconsideration of the court's ruling denying Plaintiff's motion for sanctions, as filed on April 7, 2008. The same Motion for Sanctions was re-urged by Plaintiffs on January 7, 2009. At a pre-trial conference held on January 12, 2009, the court stated it would rule on the Motion for Sanctions and other pre-trial motions on the morning of January 27, 2009 prior to commencement of the jury trial. On January 27, 2009 counsel for Defendant and 46 jury panel members appeared. Plaintiffs failed to appear. On motion of the Defendant, the court dismissed the matter with prejudice pursuant to Rule 41(b), Ariz.R.Civ.Pro. The Order for Dismissal with Prejudice was filed on February 4 2009.

Plaintiff L. Riendeau filed a Notice of Appeal on February 9, 2009. Plaintiff H. Riendeau filed a Notice of Appeal on February 27, 2009. The Court of Appeals, Division One, having consolidated the appeals, considered the issue of whether the superior court properly denied Plaintiffs' Motion for Sanctions in its Memorandum Decision filed September 9, 2010 (p. 12-14), and finding no error, affirmed the superior court's denial of disclosure sanctions. On

1 February 11, 2013, Plaintiffs renewed their motion for sanctions re-urging the court to reconsider
2 the previously denied motion for sanctions. Defendant requests this court deny Plaintiffs'
3 motion and further seeks an order declaring Plaintiffs vexatious litigants.

4 ANALYSIS

5 I. Plaintiffs' Motion for Sanctions

6 Plaintiffs file their Motion to Vacate Void Order seeking reconsideration of this court's
7 denial of Plaintiff's motion for sanctions on August 20, 2008, without any citation to authority
8 justifying its late filing,¹ the issue having been fully litigated and decided before the Court of
9 Appeals, Division One,² and this case having been dismissed with prejudice.³ Plaintiffs Motion
10 to Vacate Void Order is denied.
11

12 II. Plaintiffs are Vexatious Litigants

13 Defendant Wal-mart has moved this court enter an order declaring Plaintiffs jointly and
14 individually, as vexatious litigants and restrict their filing of derivate lawsuits and post-judgment
15 motions. In order to declare Plaintiffs as vexatious litigants, this court must follow the principles
16 set forth in *De Long v. Hennessey*, 912 F.2d 1144, 1147 (9th Cir. 1990). Those principles are as
17 follows, (1) to satisfy due process, the litigant must be afforded notice and an opportunity to
18 oppose the order, (2) the court must create an adequate record for appellate review that includes
19 a listing of all cases and motions leading the court to enter the order, (3) the court must make
20 " 'substantive findings as to the frivolous or harassing nature of the litigant's actions,' " and (4)
21 the order must be narrowly tailored to closely fit the specific vice encountered." *Id.* at 1147-48.
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26 ¹ The order from which Plaintiffs seek relief was filed August 20, 2008,
approximately four and a half years ago.

27 ² The Court of Appeals, Division One, affirmed the Superior Court order
denying Plaintiffs' Motion for Sanctions.

28 ³ The case was dismissed on February 4, 2009 and the Court of Appeals upheld
the dismissal.

1
2 *a. Notice*

3 Defendant Wal-mart has moved this court enter an order declaring Plaintiffs jointly and
4 individually, as vexatious litigants in its Motion to Strike filed February 25, 2013. On March 1,
5 2013 Plaintiffs responded in opposition. Plaintiffs were put on notice and have been given an
6 opportunity to be heard in opposition.
7

8 *b. Record*

9 With respect to Plaintiffs' Motion for Sanctions for Failure to Timely Disclose
10 Unfavorable Information, the record reveals the following:

- 11 (i) This issue was first presented to this court on April 7, 2008. This court denied
12 that motion, after a hearing on the matter, via signed minute entry filed on August
13 20, 2008.
14
15 (ii) Plaintiffs filed a "Statement in Reference to August 5, 2008 Hearing"⁴ on August
16 18, 2008.
17
18 (iii) Plaintiffs filed a "Notice of Objection To" on September 25, 2008, objecting to
19 the court's August 20, 2008 orders.
20
21 (iv) Plaintiffs filed a "Notice of Request to Change Judge" on October 14, 2008, based
22 on the August 5, 2008 hearing wherein Plaintiffs' motion for sanctions was
23 denied.
24
25 (v) On October 30, 2008, this court denied the request for change of judge, per Rule
26 42(f)(1)(D), Ariz.R.Civ.Proc.
27
28 (vi) On November 3, 2008, Plaintiffs filed a "Request for Hearing" before the then
Presiding Judge, seeking review of the denial of the request for change of judge

⁴ August 5, 2008 was the date of hearing on the Motion for Sanctions.

1 and raising the issue of the August 20, 2008 denial of Plaintiffs' motion for
2 sanctions.

3 (vii) Plaintiffs filed a "Change of Judge" on November 25, 2008, based on the denial
4 of the motion for sanctions and the August 5, 2008 hearing. This motion alleged
5 grounds for change of judge for cause.

6
7 (viii) On December 15, 2008, this court denied Plaintiffs' motion for change of judge
8 for cause, as filed November 25, 2008.

9 (ix) Plaintiffs filed a "Request for Re-Hearing of the Motion to Change Judge For
10 Cause," on December 16, 2008.

11 (x) On December 18, 2008, this court denied Plaintiffs' motion for reconsideration
12 via written order.

13
14 (xi) Plaintiffs filed a "Request to Intervene" directed to the then Presiding Judge on
15 January 20, 2009, raising, among other issues, the denial of motion for sanctions.

16 (xii) On February 4, 2009, following Plaintiffs' willful failure to appear at the jury trial
17 the court entered an order for dismissal with prejudice.

18
19 (xiii) Plaintiff L. Riendeau filed a Notice of Appeal on February 9, 2009. Plaintiff H.
20 Riendeau filed a Notice of Appeal on February 27, 2009. Plaintiffs litigated the
21 issue of motion for sanctions before the Court of Appeals, Division One.

22 (xiv) The Court of Appeals, Division One, considered the issue of whether the superior
23 court properly denied Plaintiff's motion for sanctions in its Memorandum
24 Decision filed September 9, 2010 (p. 12-14), and finding no error, affirmed the
25 superior court's denial of disclosure sanctions.
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1 (xv) Plaintiffs filed a "Motion to Vacate Void Order" on February 11, 2013, thereby
2 renewing their motion for sanctions.

3 (xvi) Defendants have consistently responded in opposition to Plaintiffs' repeated
4 motions for reconsideration on the denial of sanctions.

5 *c. Findings*

6
7 By the repeated filing of pleadings geared at seeking reconsideration of this court's ruling
8 on Plaintiffs' motion for sanctions, as filed on August 20, 2013, Plaintiffs' have demonstrated an
9 unwillingness to accept this superior court's and the Arizona Court of Appeals' rulings.
10 Plaintiffs' continued efforts to relitigate the issue of the motion for sanctions and the issue of
11 Attorney Monique A. Simpson's unsigned affidavit have resulted in needless expense to
12 Defendant Wal-mart. Additionally, Plaintiffs' continued filings on the issue of motion for
13 sanctions, including multiple letters directed to the Presiding Judge and seeking clarification
14 and/or intervention have unreasonably and unduly burdened the court.
15

16 *d. Narrowly Tailored Order*

17
18 This court's order hereby restricts Plaintiffs, jointly and individually, from filing further
19 post-judgment motions against Defendant Wal-mart and its attorneys regarding issues previously
20 litigated in the instant action, which have been fully adjudicated, and for which the appeal time
21 has expired.

22 **CONCLUSION**

23
24 Therefore,

25 IT IS ORDERED Plaintiffs are hereby found, jointly and individually, to be vexatious
26 litigants.
27
28


1 IT IS ORDERED, Plaintiffs, H. Lorraine Riendeau and Leonard A. Riendeau, are hereby
2 restricted from filing further motions for sanctions as to Defendant Wal-mart's litigation conduct
3 in the instant case, as related to this court's August 20, 2008 orders, without prior authorization
4 of the Yuma County Superior Court Presiding Judge.

5 IT IS FURTHER ORDERED, Plaintiffs are restricted from filing further post-judgment
6 motions against Defendant Wal-mart and its attorneys regarding issues litigated in the instant
7 action which have been fully adjudicated, and for which the appeal time has expired without
8 prior authorization of the Yuma County Superior Court Presiding Judge.
9

10 IT IS FURTHER ORDERED referring this matter to the Presiding Judge of this court for
11 the issuance of an administrative order setting forth the requirements Plaintiffs must meet prior
12 to filing any motions and/or requestS against Defendant Wal-mart and/or its attorneys regarding
13 issues litigated in the instant action which have been fully adjudicated, and for which the appeal
14 time has expired.
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16 Dated this 18th day of March, 2013.

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HON. MARIA ELENA CRUZ
JUDGE OF THE SUPERIOR COURT

1 Copies of the foregoing mailed
2 this ____ day of March, 2013 to:

3 Leonard A. Riendeau and
4 H. Lorraine Riendeau
5 2016 Camino Barranca
6 Yuma, Arizona 85364
Plaintiffs Appearing Pro Per

7 Benjamin C. Thomas, Esq.
8 **THOMAS, THOMAS & APPEL, P.C.**
9 2700 North Central, Suite 800
Phoenix, Arizona 85004-1185
Attorneys for Wal-Mart Stores, Inc.

10 LYNN FAZZ, Clerk of Superior Court

11 By _____
12 Deputy Clerk
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